

16 NCAC 06H .0112 DISPUTE RESOLUTION PROCESS FOR HOMELESS STUDENTS

(a) As used in this Rule:

- (1) The terms "homeless," "homeless child," and "homeless student" shall mean the same as the term "homeless children and youth" as defined by 42 U.S.C. § 11434a(2). These terms shall also be deemed to include the term "unaccompanied youth."
- (2) The term "unaccompanied youth" shall mean the same as defined by 42 U.S.C. § 11434a(6).

(b) Each LEA shall appoint a liaison for homeless students. The LEA shall train the LEA liaison to carry out and mediate the dispute resolution process as expeditiously as possible and to ensure that each school and the LEA meets the requirements of the McKinney-Vento Homeless Education Assistance Improvements Act of 2001. The LEA liaison shall also ensure that each unaccompanied youth and any student who meets the definition of "homeless children and youth" as defined by 42 U.S.C. § 11434a(2) is enrolled immediately in the school pending resolution of the dispute. The burden shall be on the school or LEA to show that the student is not a homeless student or unaccompanied youth.

(c) Each LEA shall develop and implement a process for parents, guardians, or unaccompanied youth who have complaints about enrollment to file an appeal to the LEA liaison upon registering, or attempting to register, at the school. Enrollment shall be deemed to include attending classes and participating fully in school activities. The appeal process shall provide that:

- (1) faculty and staff of the school who know about the complaint must refer the child, youth, parent, or guardian to the LEA liaison;
- (2) the LEA liaison shall expeditiously carry out the dispute resolution process;
- (3) pending resolution of any complaint between the school or LEA and the parent, guardian, or unaccompanied youth over school enrollment, the LEA shall enroll the child or youth immediately in the school in which the child or youth seeks enrollment;
- (4) the LEA shall provide the student with all the services for which the student is eligible and shall permit the student to participate fully in school activities while the dispute is being resolved;
- (5) the LEA shall provide the parent, guardian, or unaccompanied youth who makes a complaint to the LEA liaison with a written statement of the rights and procedures, in language the parent, guardian, or unaccompanied youth can understand, that informs them of:
 - (A) contact information including telephone number and address of the LEA liaison and of the State coordinator for homeless education, with a brief description of their roles;
 - (B) the right to initiate the dispute resolution process either orally or in writing;
 - (C) a simple form that parents, guardians, or unaccompanied youth can complete and submit to the LEA liaison to initiate the dispute resolution process;
 - (D) a step-by-step description of how to dispute the school's decision;
 - (E) notice of the right to enroll immediately in the school of choice or remain in the school of origin with transportation provided pending resolution of the dispute;
 - (F) notice that immediate enrollment includes full participation in all school activities; and
 - (G) notice of the right to obtain assistance of advocates or attorneys.
- (6) the LEA shall provide the parent, guardian, or unaccompanied youth with the name and contact information of the State coordinator for homeless education; and
- (7) the LEA shall inform the parent, guardian, or unaccompanied youth about the right to appeal any decision regarding the student's enrollment to the State coordinator.

(d) Each LEA shall include in the dispute resolution process the following components:

- (1) The LEA shall allow the parent, guardian, or unaccompanied youth to initiate the dispute resolution process at the school at which enrollment is sought or at the LEA liaison's office.
- (2) The LEA shall inform the parent, guardian, or unaccompanied youth of the right to provide supporting written or oral documentation.
- (3) The LEA shall inform the parent, guardian, or unaccompanied youth of the right to seek the assistance of advocates or attorneys.
- (4) The LEA shall provide the parent, guardian, or unaccompanied youth with a written statement of the final LEA decision.
- (5) The LEA shall inform the parent, guardian, or unaccompanied youth of the right to appeal the final LEA decision to the State coordinator.

(e) The Superintendent of Public Instruction shall designate a State coordinator for homeless education.

- (f) Any parent, guardian, or unaccompanied youth who is not satisfied with the final LEA decision regarding enrollment may appeal the decision to the State coordinator. In addition, any interested person who believes that grounds for an appeal exist may present an oral or written appeal to the State coordinator, including:
- (1) the name, address, and telephone number of the person filing the appeal;
 - (2) the relationship or connection of the person to the child in question;
 - (3) the name of the school system and the specific school in question;
 - (4) the federal requirement alleged to have been violated;
 - (5) how the requirement has been violated; and
 - (6) the relief the person is seeking.
- (g) If the State coordinator receives an appeal that is not complete, the coordinator shall contact the person making the appeal, explain the deficiency, and offer the person the opportunity to complete the appeal.
- (h) Upon request of the State coordinator, the LEA liaison shall provide the State coordinator with the record of the complaint and the LEA's actions. If the matter involves more than one LEA, then the LEA liaisons shall cooperate to provide the State coordinator with a complete record. In either event, the liaison or liaisons shall provide the complete record within five school days following the State coordinator's request.
- (i) The LEA shall provide the State coordinator with any information that the State coordinator requests regarding the issues presented in the appeal.
- (j) The State coordinator shall provide the LEA and the parent, guardian, or unaccompanied youth with the opportunity to respond to the LEA decision and to provide any additional evidence they deem relevant.
- (k) The State Coordinator shall issue a final written decision to the parent, guardian, or unaccompanied youth and the LEA involved within 10 school days following receipt of the complete appeal.
- (l) The State coordinator's decision shall include:
- (1) a summary of the issue appealed;
 - (2) the federal requirement at issue; and
 - (3) a description of the State coordinator's decision in plain language.
- (m) Nothing contained in this Rule shall prohibit the State coordinator from investigating whether the parent, guardian, or unaccompanied youth knowingly and voluntarily entered into any agreement affecting their rights under McKinney-Vento Homeless Education Assistance Improvements Act of 2001. If the coordinator determines that the parent, guardian, or unaccompanied youth did not knowingly and voluntarily enter into the agreement, then the coordinator may void the agreement and enter a decision consistent with the applicable facts and law.

History Note: Authority G.S. 115C-366(a2); N.C. Constitution, Article IX, s. 5; 42 U.S.C. § 11432; Eff. February 2, 2007.